

ESTTA Tracking number: **ESTTA7705**

Filing date: **04/16/2004**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92043017
Party	Defendant Cuzcatlan Beverages, Inc. Cuzcatlan Beverages, Inc. 13015 S.W 89 Place., No. 225 Miami, FL 33176
Correspondence Address	Cuzcatlan Beverages, Inc. 13015 S.W 89 Place., No. 225 Miami, FL 33176
Submission	Answer
Filer's Name	Cheryl Meide, Esquire
Filer's e-mail	cmeide@meidelaw.com
Signature	/cheryl meide/
Date	04/16/2004
Attachments	CBL.001.pdf (4 pages)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

George Contos and Neil Pryor,
Petitioners

v.

C.B.I. International, Inc.
F/N/A Cuzcatlan Beverages, Inc.,
Registrant

In the matter of
Trademark Registration No. 2,375,219
For the mark: CUZCATLAN COLA
CHAMPAGNE and Design
International Class 32

Trademark Registration No. 2,396,051
For the mark: CUZCATLAN and Design
International Class 32

Trademark Registration No. 2,423,027
For the mark: CUZCATLAN and Design
International Class 32

Trademark Registration No. 2,433,109
For the mark: CUZCATLAN ROJITA and
Design
International Class 32

Trademark Registration No. 2,463,527
For the mark: CUZCATLAN COLA
CHAMPAGNE and Design
International Class 32

Cancellation No.: 92,043,017

REGISTRANT'S ANSWER TO
CONSOLIDATED PETITION FOR
CANCELLATION

CBI.0101
April 16, 2004

REGISTRANT'S ANSWER TO CONSOLIDATED PETITION FOR CANCELLATION

Registrant C.B.I. International, Inc. F/N/A Cuzcatlan Beverages, Inc., ("Registrant"), by its attorneys, hereby answers the allegations set forth in the Consolidated Petition for Cancellation of Trademark Registration Numbers: 2,375,219; 2,396,051; 2,423,027; 2,433,109; and 2,463,527 ("Petition for Cancellation") as follows:

Registrant denies the allegation in the preamble that Petitioners "believe that they are being and will be damaged by the above-identified registrations." Registrant admits the remaining allegations in the preamble.

1. Registrant denies the generic allegation as set forth in Paragraph 1 of the Consolidated Petition for Cancellation.

2. Registrant admits that on February 26, 2001, the United States Bankruptcy Court for the Southern District of Florida issued via a Final Judgment in Favor of Trustee, Alan Goldberg, an injunction precluding Registrant solely from utilizing the Trademark under the now cancelled Trademark Registration No. 1,699,307. Registrant denies any remaining allegations set forth in Paragraph 2 of the Consolidated Petition for Cancellation.

3. Registrant admits that on July 10, 2001, the Trustee, Alan Goldberg, assigned the now cancelled Trademark Registration No. 1,699,307 for the mark CUZCATLAN to George Contos and Neil Pryor. Registrant admits that Exhibit C resembles a recorded trademark assignment under the U.S. Patent and Trademark Office for the now cancelled Trademark Registration No. 1,699,307 and with an illegible Trademark Reel and Frame identification. Registrant denies any remaining allegations set forth in Paragraph 2 of the Consolidated Petition for Cancellation.

4. Registrant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 4 of the Consolidated Petition for Cancellation and, therefore, denies said allegations.

5. Registrant admits that the on-line database of the United States Patent and Trademark Office indicates that Petitioners filed application Serial Number 78/271,564 on July 8, 2003 for the mark CUZCATLAN in connection with soft drinks.

6. Registrant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 6 of the Consolidated Petition for Cancellation and, therefore, denies said allegations.

7. Registrant admits that on February 26, 2001, the United States Bankruptcy Court for the Southern District of Florida issued via a Final Judgment in Favor of Trustee, Alan Goldberg, an injunction precluding Registrant solely from utilizing the Trademark under the now cancelled Trademark Registration No. 1,699,307. Registrant denies any remaining allegations set forth in Paragraph 7 of the Consolidated Petition for Cancellation.

8. Registrant denies the allegations set forth in Paragraph 8 of the Consolidated Petition for Cancellation.

9. Registrant denies the allegations set forth in Paragraph 9 of the Consolidated Petition for Cancellation.

10. Registrant denies the allegations set forth in Paragraph 10 of the Consolidated Petition for Cancellation.

11. Registrant denies the allegations set forth in Paragraph 11 of the Consolidated Petition for Cancellation.

12. Registrant denies the allegations set forth in Paragraph 12 of the Consolidated Petition for Cancellation.

13. Registrant denies the allegations set forth in Paragraph 13 of the Consolidated Petition for Cancellation.

14. Registrant denies the allegations set forth in Paragraph 14 of the Consolidated Petition for Cancellation.

Registrant expressly denies any and all allegations in the Consolidated Petition for Cancellation not expressly admitted above.

Ad Damnum Clause


Registrant denies Petitioners are entitled to the relief they seek.

AFFIRMATIVE DEFENSES

1. Registrant's trademarks under Trademark Registration Numbers: 2,375,219; 2,396,051; 2,423,027; and 2,433,109 have priority and superseding rights over Petitioner's U.S. Federal Trademark application for the mark CUZCATLAN, Serial No. 78/271,564 as well as any of Petitioner's common law rights in the CUZCATLAN mark.

2. The Trademark rights at issue in the Final Judgment in Favor of Trustee, Alan Goldberg dated February 26, 2001, by the United States Bankruptcy Court for the Southern District of Florida, namely Trademark Registration No. 1,699,307 for the mark CUZCATLAN, have been cancelled via cancellation of Trademark Registration No. 1,699,307.

Respectfully submitted,


Cheryl Meide
Attorney for Registrant
Florida Bar No. 0064173


April 16, 2004
Date

Meide Law Firm, P.A.

6622 Southpoint Drive South, Suite 150
Jacksonville, Florida 32216
Phone: (904) 470-4110
Fax: (904) 470-4102
E-mail: cmeide@meidelaw.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Registrant's Answer to Consolidated Petition for Cancellation was deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Robert M. Schwartz, Esq., Ruden, McClosky, Smith, Schuster & Russell, P.A., 200 E. Broward Blvd., Ft. Lauderdale, Florida, 33301, on the date set forth below.


Cheryl Meide
Attorney for Registrant
Florida Bar No. 0064173

April 16, 2004
Date

Meide Law Firm, P.A.
6622 Southpoint Drive South, Suite 150
Jacksonville, Florida 32216
Phone: (904) 470-4110
Fax: (904) 470-4102
E-mail: cmeide@meidelaw.com

CERTIFICATE OF ESTTA MAILING

Date of Deposit April 16, 2004

Signature 
Name: Cheryl Meide, Esquire

I hereby certify that this document to the Trademark Trial and Appeal board is being submitted via the Electronic System for Trademark Trials and Appeals ("ESTTA") on the date noted above.